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December 29, 2017

VIA ECF

Honorable Richard M. Berman
United States District Judge
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street, Room 1650
New York, New York 10007

Re: **United States v. Mehmet Hakan Atilla, S4 15 Cr. 867 (RMB)**

Dear Judge Berman:

We represent defendant Mehmet Hakan Atilla in the above referenced matter. We write to the Court in response to its request for clarification regarding the Rule 29(a) motion filed on December 15, 2017 (ECF No. 382) and the letter filed on December 22, 2017 (ECF No. 394). The defense previously requested that the Court “supplement Defendant’s motion for acquittal with” the December 22, 2017 letter. (ECF No. 294, at 1). By means of this letter we hereby withdraw the supplemental letter dated December 22, 2017 as it relates to the Rule 29(a) motion made on December 15, 2017. We are not withdrawing our December 15, 2017 Rule 29(a) motion which was filed at the close of the government’s case. (ECF No. 382).

Given that the Court reserved ruling on the December 15, 2017 Rule 29(a) motion, (12/15/17 Tr. at 1972), that motion should be considered in its originally filed form and should be considered based only on the government’s case-in-chief. *See* FED. R. CRIM. P. 29(b) (“Reserving Decision. The court may reserve decision on the motion, proceed with the trial (where the motion is made before the close of all the evidence), submit the case to the jury, and decide the motion either before the jury returns a verdict or after it returns a verdict of guilty or is discharged without having returned a verdict. If the court reserves decision, it must decide the motion on the basis of the evidence at the time the ruling was reserved.”); *United States v. Autori*, 212 F.3d 105, 108 (2d Cir. 2000) (“Because [defendant] first moved for judgment of acquittal at the close of the prosecution’s case-in-chief, the district court evaluated sufficiency on the basis only of the evidence presented by the government.”); *United States v. Reyes*, 302 F.3d 48, 50 (2d Cir. 2002)(“While a district court may reserve decision on a motion for judgment of acquittal, its later ruling on the motion must be based only on the evidence before the court at the time of the reservation.”).

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We intend to make a Rule 29(c) motion based on the entirety of the evidence, post-verdict, if necessary, on the grounds set forth in the December 22, 2017 letter and any other applicable grounds. *See* FED. R. CRIM. P. 29(c)(1) (“A defendant may move for a judgment of acquittal, or renew such a motion, within 14 days after a guilty verdict or after the court discharges the jury, whichever is later.”).

Respectfully submitted,

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cc: All Counsel (via ECF)